

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS ALEX FREED,

Plaintiff,

vs.

PREMIER ROOFING COMPANY,

Defendant.

8:23CV379

MEMORANDUM AND ORDER

This matter comes before the Court on the Findings and Recommendations of the Magistrate Judge that this case be dismissed without prejudice. [Filing No. 36](#). For the reasons stated herein, the Court adopts the Findings and Recommendation and dismisses the case.

The background of this case is set forth in greater detail in the Magistrate Judge's Findings and Recommendation. This is a breach of contract action originally filed in state court and removed to federal court. [Filing No. 1](#). Shortly after removal, the Magistrate Judge allowed Freed's counsel to withdraw. [Filing No. 27](#). The Magistrate Judge's order informed Freed that, until he obtained new counsel, he was proceeding pro se, meaning he "must comply with all case progression deadlines, orders of this Court, the Federal Rules of Civil Procedure, and this district's Local Rules of Practice[,] and "[f]ailure to comply with these requirements may result in the imposition of sanctions, including payment of costs, attorneys' fees, and/or dismissal of the case." *Id.* After Freed's counsel withdrew, Freed did not respond to communications from Premier or the Magistrate Judge. After Freed failed to appear for a telephonic planning conference on October 2, 2024, the Magistrate Judge indicated that failure to appear at the rescheduled planning

conference on October 30, 2024 “will result in a recommendation that his case be dismissed for want of prosecution and failure to comply with Court Orders.” Filing No. 32, Text Order; NECivR 41.2. Freed did not appear for the October 30th telephone conference and Premier indicated they had had no contact with Freed. Accordingly, the Magistrate Judge recommended that this case be dismissed without prejudice. [Filing No. 36](#).

A party may object to a magistrate judge’s findings and recommendations by filing an objection withing fourteen days. [Fed. R. Civ. P. 72\(b\)\(2\)](#). More than fourteen days have passed, and Freed has not objected. Accordingly, the Court adopts the Magistrate Judge’s recommendation that the case be dismissed without prejudice for failure to comply with the Court’s order and failure to prosecute.

IT IS ORDERED:

1. The Court adopts the Magistrate Judge’s Findings and Recommendation, [Filing No. 36](#), in full.
2. The case is dismissed without prejudice.
3. The Court will file a separate judgment.

Dated this 6th day of December, 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge